

**Notice of Allowability**

Application No.

10/642,289

Examiner

Maryam Monshipouri

Applicant(s)

PITSON ET AL.

Art Unit

1653

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to \_\_\_\_.
2. ☒ The allowed claim(s) is/are 13-15, 17-20 and 22.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some\* c) ☐ None of the:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 12/22/05 *(attached to interview summary)*
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 12/22/12/19/05
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_.

Application/Control Number: 10/642,289

Page 2

Art Unit: 1653

Serial Number: 10/642,289  
Art Unit 1653

An **Examiner's Amendment** to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this Examiner's Amendment was given in a telephone interview with Mr. S. Niemark on 12/19/2005.

#### **Examiner's Amendment to the Claims**

This application is in condition for allowance except for the presence of claims 16 and 21 drawn to non-elected without traverse. Accordingly, claims 16 and 21 are been cancelled.

Cancel claims 16, 21, 23-25.

In claim 13, line 3, after "SEQ ID NO:2", insert --- wherein said polypeptide has sphingosine kinase activity ---.

In claim 14, line 3, after "SEQ ID NO:2", insert --- wherein said polypeptide has sphingosine kinase activity ---.

In claim 18, line 6, after "has" delete "a sphingosic" and substitute therefor --- sphingosine ---.

#### **Examiner's Amendments to the Specification**

In page 4, line 21, delete "Figure 9 is" and substitute therefor --- Figures 9A-9D are ---.

The following is an **Examiner's Statement of Reasons for Allowance**:

Claims 13-15, 17-20, and 22 are directed to a human sphingosine kinase of specific amino acid sequence and specifically claimed homologs thereof with said

Serial Number: 10/642,289  
Art Unit 1653

activity as well as compositions comprising said products and a pharmaceutically acceptable carrier.

Claimed sphingosine kinase amino acid sequence is free of prior art. Further, the prior art does not teach or suggest preparing such specifically claimed amino acid sequence. Hence said sequence is also non-obvious. Since said sequence is both novel and non-obvious specifically claimed homologs thereof with said activity and compositions comprising all said products are also novel and non-obvious.

**Claims 13-22 are allowed.**

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maryam Monshipouri whose telephone number is (571) 272-0932. The examiner can normally be reached on 7:00 a.m to 4:30 p.m. except for alternate Mondays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weber Jon P. can be reached on (571) 272-0925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Serial Number: 10/642,289  
Art Unit 1653

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Maryam Monshipouri Ph.D.

Primary Examiner

\*\*\*